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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/622,402 | 07/18/2003 | Robert H. Mimlitch III | 14489-009001 | 4137 |

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT PAPER NUMBER

3634

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

The election (with traverse) filed October 31, 2005, by which claims 24, 3, 5, 13, 14, and 25-38 were elected, is acknowledged. *However*, upon further review of the amendment to the claims (which includes the above-mentioned claims) filed July 5, 2005, the following restriction is being presented to applicant.

It is noted that the restriction requirement below is identical to the requirement mailed August 31, 2005. *However*, a species requirement is being newly presented.

Thus, applicant is required to elect an invention, species, and sub-species, commensurate with this Office action.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 24, 3, 5, 13, 14, and 25-38, drawn to a support shelf, classified in class 211, subclass 026.
- II. Claims 39-42, drawn to a slidable support, classified in class 312, subclass 223.2.
- III. Claim 43, drawn to a method, classified in class 211, subclass 175.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as use without a base. See MPEP § 806.05(d). It is noted that claims 39-42 are only *functionally* reciting a base.

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Inventions I and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process of using that product such as not placing an electronic component therein, as required in claim 43.

Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used in a materially different process of using that product such as not placing an electronic component therein, as required in claim 43.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

This application contains claims directed to the following patentably distinct *species* of the claimed invention:

- (a) Figures 5, 6A, and 6B; and
- (b) Figures 1, 9, 10, 10A, and 11.

This application contains claims directed to the following patentably distinct *sub-species* of the claimed invention:

- (i) Figure 8, i.e., the arm 240 shown therein; and
- (ii) Figure 7.

It is noted that Figure 3 is Prior Art and Figures 2, 4, and 12 are generic to both species.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species and sub-species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are deemed to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

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thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

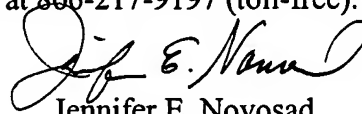
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is 571-272-6832. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer E. Novosad
Primary Examiner
Art Unit 3634

January 5, 2006